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1ST SESSION

H. R. 2350

To require depository institutions to offer basic financial services accounts,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1993

Mr. TORRES introduced the following bill; which was referred to the
Committee on Banking, Finance and Urban Affairs

A BILL

To require depository institutions to offer basic financial
services accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Services Ac-
5 cess Act of 1993”.

6 **SEC. 2. BASIC FINANCIAL SERVICES ACCOUNTS REQUIRED.**

7 (a) IN GENERAL.—Each depository institution shall
8 offer a basic financial services account which, at the elec-
9 tion of the account holder, may be used to obtain—

10 (1) basic transaction account services; or

1 (2) government check cashing account services.

2 (b) REQUIREMENTS FOR BASIC FINANCIAL SERVICES

3 ACCOUNTS.—A basic financial services account shall meet
4 the requirements of this Act. A basic financial services ac-
5 count does not meet the requirements of this Act if it—

6 (1) requires any other relationship with the de-
7 pository institution, except as provided in section 7;

8 (2) allows a depository institution to discrimi-
9 nate against low-income individuals on the basis of
10 race, color, national origin, sex, age, marital status,
11 receipt of public assistance, source of income, exer-
12 cise of any rights under consumer protection stat-
13 utes, employment status, or access to credit in order
14 to use such basic financial services account; or

15 (3) requires the account holder exclusively to
16 use direct deposit services, automated teller ma-
17 chines, or other nonteller services for such basic fi-
18 nancial services account.

19 (c) EXEMPTION FOR CERTAIN INDIVIDUALS.—A de-
20 pository institution is not required to provide a basic fi-
21 nancial services account to any individual who—

22 (1) has a deposit account relationship at the de-
23 pository institution or any other depository institu-
24 tion; or

1 (2) has a government check cashing relation-
2 ship at the depository institution or any other depos-
3 itory institution.

4 (d) EXEMPTION FROM BASIC TRANSACTION SERV-
5 ICES REQUIREMENTS.—Any depository institution that on
6 the effective date of this Act offers basic transaction serv-
7 ices that are, from an account holder’s perspective, com-
8 parable to or more favorable than those services prescribed
9 in subsection (a)(1), shall be exempt from section 4 for
10 as long as it continues to offer comparable or more favor-
11 able basic transaction services.

12 (e) EXEMPTION FROM CHECK CASHING SERVICES
13 REQUIREMENTS.—Any depository institution that on the
14 effective date of this Act offers government check cashing
15 services that, from an account holder’s perspective, are
16 comparable to or more favorable than those services pre-
17 scribed in section 5, shall be exempt from subsection
18 (a)(2) for as long as it continues to offer comparable or
19 more favorable government check cashing services.

20 **SEC. 3. ACCOUNT APPLICATIONS.**

21 (a) IN GENERAL.—The Board shall develop a model
22 application form for the use of depository institutions in
23 offering a basic financial services account.

1 (b) MINIMUM REQUIREMENTS.—The application
2 form developed by the Board, or a comparable form devel-
3 oped by a depository institution in lieu thereof, shall—

4 (1) be available at all the depository institu-
5 tion's deposit taking offices that—

6 (A) open new accounts; and

7 (B) are staffed by individuals employed by
8 such depository institutions; and

9 (2) contain—

10 (A) the name, address, date of birth, hand-
11 written signature, and taxpayer identification
12 number or other identification number of the
13 applicant; and

14 (B) other information the Board reason-
15 ably determines to be necessary to provide basic
16 transaction account services and government
17 check cashing account services pursuant to this
18 section.

19 (c) IDENTIFICATION OF APPLICANT.—At the time of
20 application, an applicant may be required to present 2
21 forms of identification, 1 of which includes the signature
22 of the applicant and 1 of which either includes a photo-
23 graph or is the birth certificate of the applicant.

24 (d) OTHER SERVICES.—At the time of application,
25 an applicant may be required by the depository institution

1 to sign a document in which the applicant states whether
2 he or she has, or has applied for, any other basic trans-
3 action services or government check cashing services.

4 (e) COPY PROVIDED.—The depository institution
5 shall provide the applicant a copy of the completed appli-
6 cation form demonstrating the fact that the application
7 has been received and filed with the depository institution
8 within 7 days after filing.

9 (f) REJECTION FOR FRAUD OR INTENTIONAL MATE-
10 RIAL MISREPRESENTATION.—

11 (1) IN GENERAL.—If, after review in good faith
12 of the application, a depository institution has rea-
13 son to believe that an applicant has committed or at-
14 tempted to commit fraud against a depository insti-
15 tution, has made an intentional material misrepre-
16 sentation in applying for a basic financial services
17 account, or has had an account closed pursuant to
18 section 4(a)(10), the depository institution may deny
19 service to the applicant.

20 (2) REQUIREMENTS.—A depository institution
21 which denies service to an applicant shall—

22 (A) provide the applicant with timely writ-
23 ten notice setting forth the reasons supporting
24 the depository institution's denial of service and

1 the procedures available to the applicant for fil-
2 ing a complaint, as provided in section 10; and

3 (B) maintain records and files with regard
4 to each denial made pursuant to this subsection
5 for a minimum period of 2 years from the date
6 of denial.

7 (3) FORM.—The Board shall develop a model
8 form for the use of depository institutions in notify-
9 ing applicants of a denial of service pursuant to this
10 subsection.

11 (g) INITIAL WAITING PERIOD.—The depository insti-
12 tution may impose a waiting period of not more than 7
13 days from the date of application before providing an ap-
14 plicant with a basic transaction services account or a gov-
15 ernment check cashing services account.

16 (h) IDENTIFICATION CARD.—If a depository institu-
17 tion issues an identification card to approved applicants,
18 it may assess a reasonable, cost-based charge for replace-
19 ment of a lost or stolen card.

20 **SEC. 4. BASIC TRANSACTION SERVICES ACCOUNT RE-**
21 **QUIREMENTS.**

22 (a) IN GENERAL.—An account is a basic transaction
23 services account for the purpose of section 2 if it is a
24 transaction account that—

1 (1) is available to account holders who maintain
2 an average balance of not more than \$750 during
3 each monthly period;

4 (2) does not require a minimum initial deposit
5 of more than \$25 or minimum balance requirement
6 of more than \$1;

7 (3) does not provide for the imposition of fees
8 other than—

9 (A) a monthly maintenance fee or service
10 charge that does not exceed the real, direct, and
11 demonstrable costs of providing the account (in-
12 cluding fraud losses and deposit insurance pre-
13 miums), as certified by the depository institu-
14 tion, plus a modest profit not to exceed 10 per-
15 cent of such costs;

16 (B) a reasonable, cost-based fee for check
17 printing;

18 (C) a reasonable, cost-based fee for proc-
19 essing checks returned for lack of sufficient
20 funds; and

21 (D) a reasonable, cost-based fee for trans-
22 actions in excess of the minimum number of al-
23 lowable transactions described in paragraph (5);

24 (4) permits checks, share drafts, electronic, or
25 other debit instruments to be drawn on the account

1 for purposes of making payments or other transfers
2 to third parties;

3 (5) permits at least 10 withdrawals per month,
4 including withdrawals described in paragraph (4),
5 whether by check, share draft, in person, proprietary
6 automatic teller machines, or other means;

7 (6) provides the account holder with—

8 (A) a detailed periodic statement listing all
9 transactions for the period involved; or

10 (B) a passbook in which the depository in-
11 stitution enters all transactions for such ac-
12 count;

13 (7) does not require the depository institution
14 to pay interest on deposited funds;

15 (8) at the election of the account holder, allows
16 regularly recurring payments to the account holder
17 to be made by a pay or directly to the depository in-
18 stitution for direct deposit into the account of the
19 account holder, if the depository institution offers di-
20 rect deposit services to account holders;

21 (9) allows the depository institution—

22 (A) to market direct deposit services; and

23 (B) to offer cost-based discounts to ac-
24 count holders who elect to rely wholly or par-

1 tially on direct deposit or automatic teller ma-
2 chines in conjunction with the account; and

3 (10) is subject to closure upon notice to the ac-
4 count holder due to—

5 (A) overdrafts, returned checks, or rejected
6 electronic debits with respect to an account on
7 3 distinct occasions within any 6-month period;

8 (B) fraudulent activity involving the ac-
9 count of such account holder; or

10 (C) failure by the account holder to abide
11 by the terms of the account, as provided in
12 paragraphs (1) through (3) of subsection (a).

13 (b) COST ANALYSIS.—For the purpose of subsection
14 (a)(3)(A), the depository institution shall base the month-
15 ly maintenance fee or service charge either on its own
16 study of costs (actual time and actual net processing
17 costs) or on functional cost analysis (actual time and ac-
18 tual net processing cost) studies of various types of deposi-
19 tory institutions performed by the Board.

20 **SEC. 5. GOVERNMENT CHECK CASHING SERVICES AC-**
21 **COUNT REQUIREMENTS.**

22 (a) IN GENERAL.—An account is a government check
23 cashing services account for the purpose of section 2 if
24 it—

1 (1) Notwithstanding the Expedited Funds
2 Availability Act (12 U.S.C. 4001 et seq.), permits
3 the account holder immediately to cash government
4 checks in amounts of as much as \$1,500, if—

5 (A) the account holder presents the check
6 and is the person to whom the check has been
7 issued; and

8 (B) the individual has applied to the de-
9 pository institution for government check cash-
10 ing services under section 3;

11 (2) does not require the account holder to pay
12 a monthly service charge or maintenance fee for
13 check cashing services;

14 (3) does not require the account holder to pay
15 a fee for the establishment of a check cashing ac-
16 count;

17 (4) does not have check cashing fees that ex-
18 ceed the real, direct, and demonstrable costs of pro-
19 viding check cashing account services (including
20 fraud losses), as certified by the depository institu-
21 tion, plus a modest profit not to exceed 10 percent
22 of such costs;

23 (5) allows the account holder to designate at
24 least 3 offices of the depository institution at which
25 to cash government checks, if such offices—

- 1 (A) take deposits;
- 2 (B) open new accounts; and
- 3 (C) are staffed by individuals employed by
- 4 such depository institution;
- 5 unless the depository institution has fewer than 3 of-
- 6 fices which meet the requirements of subparagraphs
- 7 (A), (B), and (C); and

8 (6) permits the depository institution to require,

9 prior to cashing any government check, the account

10 holder to present—

11 (A) any identification described in section

12 3(c) or section 3(h); and

13 (B) the account holder's government check

14 cashing services account number.

15 (b) COST ANALYSIS.—For the purpose of subsection

16 (a)(4), the depository institution shall base such check

17 cashing fees either on its own study of costs (actual time

18 and actual net processing cost) or on functional analysis

19 (actual time and actual net processing cost) studies of var-

20 ious types of depository institutions performed by the

21 Board.

22 **SEC. 6. INFORMATION ON ACCOUNTS.**

23 (a) DISPLAY.—

24 (1) IN GENERAL.—A depository institution shall

25 conspicuously display in its lobby and other public

1 areas of the institution brochures, pamphlets, or
2 other written information that inform account hold-
3 ers and potential account holders that basic financial
4 services accounts are available.

5 (2) INFORMATION.—Such brochures, pam-
6 phlets, or other written information shall—

7 (A) clearly explain the material features
8 and limitations of basic transaction and govern-
9 ment check cashing services, including the costs
10 of utilizing basic transaction account services;

11 (B) state that further information concern-
12 ing such services is available from the deposi-
13 tory institution upon request; and

14 (C) include information concerning an ac-
15 count holder's right to complain regarding non-
16 compliance with this Act.

17 (3) AVAILABILITY.—A depository institution
18 shall provide the information described in paragraph
19 (2) to any individual upon request.

20 (b) PUBLIC SERVICE ANNOUNCEMENTS AND MULTI
21 LANGUAGE NOTICES.—For the purpose of obtaining the
22 widest possible dissemination of information concerning
23 basic banking accounts available pursuant to this Act, par-
24 ticularly with respect to individuals whose ability to read
25 the English language is limited, the Board—

1 (1) shall prepare public service announcements
2 describing the basic banking accounts available pur-
3 suant to this Act and make such announcements
4 available free of charge to broadcast or electronic
5 media;

6 (2) may prescribe regulations requiring deposi-
7 tory institutions to include a brief description of the
8 basic banking accounts available at such institution
9 in any advertisement by such institution in any
10 broadcast or electronic medium; and

11 (3) shall prescribe regulations which require
12 that, in the case of any branch or office (of a deposi-
13 tory institution) which is located in an area in which
14 more than an insignificant number of the residents
15 have a limited English proficiency, the information
16 required to be made available under subsection (a)
17 by such branch or office be written in any language
18 which is predominant among such residents (in addi-
19 tion to English).

20 **SEC. 7. SPECIAL RULES FOR CREDIT UNIONS.**

21 (a) BASIC TRANSACTION SERVICES.—Any credit
22 union which, in the ordinary course of business, offers
23 share draft accounts to its own members shall provide
24 basic transaction services pursuant to this Act to any indi-
25 vidual who is or becomes a member of such credit union

1 if the individual complies with the requirements of this
2 Act.

3 (b) GOVERNMENT CHECK CASHING SERVICES.—Any
4 credit union which, in the ordinary course of business,
5 cashes share drafts or government checks for its own
6 members shall provide government check cashing services
7 pursuant to this Act to any individual who is or becomes
8 a member of such credit union if the individual complies
9 with the requirements of this Act.

10 **SEC. 8. SPECIAL RULES FOR CERTAIN DEPOSITORY INSTI-**
11 **TUTIONS.**

12 (a) INSTITUTIONS THAT DO NOT OFFER TRANS-
13 ACTION ACCOUNTS.—A depository institution, other than
14 a credit union, which does not, in the ordinary course of
15 business, offer transaction accounts to the general public,
16 is not required to provide basic transaction services.

17 (b) INSTITUTIONS THAT DO NOT CASH CHECKS.—
18 A depository institution which does not, in the ordinary
19 course of business, cash checks is not required to provide
20 government check cashing services.

21 **SEC. 9. PREVENTING FRAUD LOSSES.**

22 (a) IN GENERAL.—The Board may, upon petition by
23 any individual depository institution, suspend, by regula-
24 tion or order, any government check cashing services ac-
25 count requirement under this Act if the Board determines

1 that the depository institution is experiencing an unac-
2 ceptable level of losses due to check-related fraud in pro-
3 viding such account services.

4 (b) SUSPENSION OF REQUIREMENTS.—The Board
5 may, by regulation or order, suspend any government
6 check cashing services account requirement imposed by
7 this Act for any class of checks if the Board determines
8 that—

9 (1) depository institutions are experiencing an
10 unacceptable level of losses due to check-related
11 fraud with respect to such class of checks; or

12 (2) there is reasonable cause to believe that
13 such class of checks is being used in a scheme to de-
14 fraud.

15 (c) REPORT.—Within 10 days of issuing any order
16 or prescribing any regulation under subsections (a) and
17 (b) of this section, the Board shall submit a report to the
18 Committee on Banking, Finance and Urban Affairs of the
19 House of Representatives and the Committee on Banking,
20 Housing, and Urban Affairs of the Senate, explaining the
21 reason for the order or regulation and the evidence consid-
22 ered in making the determination to issue an order or pre-
23 scribe a regulation.

24 (d) EXEMPTIONS.—This Act does not apply with re-
25 spect to any government check presented for cashing to

1 a depository institution if the depository institution has
2 reason to believe that—

3 (1) such check is fraudulent, is being fraudu-
4 lently presented, or has been altered or forged;

5 (2) the individual presenting the check is mis-
6 representing or has misrepresented his or her iden-
7 tity;

8 (3) any form of identification that is presented
9 in connection with cashing such check has been al-
10 tered or forged; or

11 (4) the check will not be honored by the check-
12 issuing governmental authority.

13 For purposes of this subsection, a reasonable belief re-
14 quires the existence of facts which would give rise to a
15 well-grounded belief in the mind of a reasonable person.

16 **SEC. 10. ADMINISTRATIVE ENFORCEMENT.**

17 (a) IN GENERAL.—Compliance with the requirements
18 imposed under this Act shall be enforced under—

19 (1) section 8 of the Federal Deposit Insurance
20 Act—

21 (A) by the Office of the Comptroller of the
22 Currency with respect to national banks, and
23 Federal branches and Federal agencies of for-
24 eign banks;

1 (B) by the Board of Governors of the Fed-
2 eral Reserve System with respect to member
3 banks of the Federal Reserve System (other
4 than national banks), and offices, branches, and
5 agencies of foreign banks located in the United
6 States (other than Federal branches, Federal
7 agencies, and insured State branches of foreign
8 banks);

9 (C) by the Board of Directors of the Fed-
10 eral Deposit Insurance Corporation with respect
11 to banks the deposits of which are insured by
12 the Federal Deposit Insurance Corporation
13 (other than members of the Federal Reserve
14 System) and insured State branches of foreign
15 banks; and

16 (D) by the Office of Thrift Supervision
17 with respect to Federal savings associations and
18 Federal savings banks; and

19 (2) section 206 of the Federal Credit Union
20 Act, by the National Credit Union Administration
21 Board, with respect to any insured credit union.

22 The terms used in paragraph (1) that are not defined in
23 this Act or otherwise defined in section 3(s) of the Federal
24 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the

1 meaning given to them in section 1(b) of the International
2 Banking Act of 1978 (12 U.S.C. 3101).

3 (b) ADDITIONAL ENFORCEMENT POWERS.—

4 (1) VIOLATION OF THIS SUBTITLE TREATED AS
5 VIOLATION OF OTHER ACTS.—For purposes of the
6 exercise by the appropriate Federal banking agency
7 of any such agency's powers under any Act referred
8 to in subsection (a), a violation of a requirement im-
9 posed under this Act is deemed to be a violation of
10 a requirement imposed under that Act.

11 (2) ENFORCEMENT AUTHORITY UNDER OTHER
12 ACTS.—In addition to the appropriate Federal bank-
13 ing agency's powers under any provision of law re-
14 ferred to in subsection (a), each such agency may
15 exercise, for purposes of enforcing this Act, any
16 other authority conferred on such agency by any
17 other law.

18 (c) COMPLAINTS BY INDIVIDUALS.—

19 (1) IN GENERAL.—The Board shall develop a
20 complaint form for individuals to use to report pos-
21 sible violations of this Act. Each appropriate Federal
22 banking agency that receives a complaint shall con-
23 duct an investigation as such agency deems nec-
24 essary. If such complaint is verified by an investiga-
25 tion, the agency shall carry out proper enforcement

1 actions according to the authority conferred by this
2 subtitle. The agency shall provide the results of such
3 investigation and any enforcement actions in writing
4 to the complainant and the depository institution
5 that was investigated.

6 (2) TIME LIMIT ON FILING OF CERTAIN COM-
7 PLAINTS.—An agency shall not consider any com-
8 plaint that alleges the denial of an application for a
9 basic financial services account in violation of this
10 Act, if the complaint is filed more than 1 year after
11 the institution's denial of the application.

12 **SEC. 11. CIVIL LIABILITY.**

13 (a) IN GENERAL.—Except as otherwise provided in
14 this section, any depository institution that fails to comply
15 with any requirement imposed under this Act with respect
16 to any person is liable to such person in an amount equal
17 to the sum of—

18 (1) any actual damage sustained by such person
19 as a result of the failure;

20 (2)(A) in the case of an individual action, such
21 amount as the court may allow, except that the li-
22 ability under this subparagraph shall not be less
23 than \$100 nor greater than \$1,000; or

24 (B) in the case of a class action, such amount
25 as the court may allow, except that as to each mem-

1 ber of the class no minimum recovery shall be appli-
2 cable, and the total recovery under this subpara-
3 graph in any class action or series of class actions
4 arising out of the same failure to comply by the
5 same depository institution shall not be more than
6 the lesser of \$500,000 or 1 percent of the net worth
7 of the depository institution; and

8 (3) in the case of any successful action to en-
9 force the foregoing liability, the costs of the action,
10 together with a reasonable attorney's fee as deter-
11 mined by the court.

12 In determining the amount of award in any class action,
13 the court shall consider, among other relevant factors, the
14 amount of any actual damages awarded, the frequency
15 and persistence of failures of compliance by the depository
16 institution, the resources of the depository institution, the
17 number of persons adversely affected, and the extent to
18 which the depository institution's failure of compliance
19 was intentional.

20 (b) LIMITATION ON LIABILITY.—A depository insti-
21 tution may not be held liable in any action brought under
22 this section for a violation of this Act if the depository
23 institution shows by a preponderance of evidence that the
24 violation was not intentional and resulted from a bona fide
25 error notwithstanding the maintenance of procedures rea-

1 sonably adapted to avoid any such error. Examples of a
2 bona fide error include clerical, calculation, computer mal-
3 function and programing, and printing errors, except that
4 an error of legal judgment with respect to a person's obli-
5 gations under this Act is not a bona fide error.

6 (c) JURISDICTION.—Any action under this section
7 may be brought in any United States district court, or
8 in any other court of competent jurisdiction, within one
9 year after the date of the occurrence of the violation.

10 (d) LIMITATION OF APPLICABILITY.—No provision of
11 this section imposing any liability shall apply to any act
12 done or omitted in good faith in conformity with any rule,
13 regulation, or interpretation thereof by the Board or in
14 conformity with any interpretation or approval by an offi-
15 cial or employee of the Federal Reserve System duly au-
16 thorized by the Board to issue such interpretations or ap-
17 provals under such procedures as the Board may prescribe
18 therefore, notwithstanding that after such act or omission
19 has occurred, such rule, regulation, interpretation, or ap-
20 proval is amended, rescinded, or determined by judicial or
21 other authority to be invalid for any reason.

22 **SEC. 12. DEFINITIONS.**

23 For the purposes of this Act—

24 (1) APPROPRIATE FEDERAL BANKING AGEN-
25 CY.—The term “appropriate Federal banking agen-

1 cy” has the same meaning given such term by sec-
2 tion 3 of the Federal Deposit Insurance Act.

3 (2) BOARD.—The term “Board” means the
4 Board of Governors of the Federal Reserve System.

5 (3) DEPOSITORY INSTITUTION.—The term “de-
6 pository institution” means any federally insured de-
7 pository institution described in clauses (i) through
8 (vi) of section 19(b)(1)(A) of the Federal Reserve
9 Act.

10 (4) GOVERNMENT CHECK.—

11 (A) IN GENERAL.—The term “government
12 check” means any check that is issued by—

13 (i) the United States or any agency of
14 the United States;

15 (ii) any State or any agency of any
16 State, and that is presented for cashing
17 purposes within the State in which the
18 check was issued; or

19 (iii) any unit of local government or
20 any agency of any unit of local govern-
21 ment, including local government public as-
22 sistance payments, and that is presented
23 for cashing purposes within the unit of
24 local government in which the check was
25 issued.

1 (B) EXCEPTIONS.—The term “government
2 check” does not include—

- 3 (i) State-issued payment warrants; or
4 (ii) checks issued by local government
5 special purpose districts or units.

6 (5) GOVERNMENT CHECK CASHING RELATION-
7 SHIP.—The term “government check cashing rela-
8 tionship” means an account relationship between an
9 individual and a depository institution under which
10 a government check cashing services account is pro-
11 vided pursuant to section 5 of this Act.

12 (6) STATE.—The term “State” has the mean-
13 ing given to such term in section 3(a) of the Federal
14 Deposit Insurance Act.

15 (7) TRANSACTION ACCOUNT.—The term “trans-
16 action account” has the meaning given such term by
17 section 19(b)(1)(C) of the Federal Reserve Act.

18 **SEC. 13. EFFECTIVE DATE.**

19 This Act shall become effective 12 months after the
20 date of enactment of this Act.

○

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